

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15931 of 2021

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Prem Kumar S/o Late Shiv Shankar Prasad, resident of Village-Paterhi Belsar,
District-Baishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Engineer-in-Chief, Rural Works Department,
Bihar, Patna.
2. The Superintending Engineer, Rural Works Department, Work Circle,
Muzaffarpur.
3. The Executive Engineer, Rural Works Department, Work Division,
Muzaffarpur West.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Amit Anand, Advocate
For the State	:	Mr.Kameshwar Pd. Gupta (Gp10) Mr. A. Karim, AC to GP-10

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 24-01-2024

The present writ petition has been filed
seeking the following relief:-

"I. That the appropriate writ or direction be issued commanding the respondents to consider and shift the date of 1st ACP from 16.01.2010 to 01.09.2000 with mandatory benefits in the light of the ACP Rules 2003 and law settled by the Hon'ble Court.

II. That an appropriate writ or direction be issued commanding the respondents to consider and grant the 1st and 2nd MACP with financial benefits w. e. from due date as per the MACP Rules."



2. At the outset, the learned counsel for the petitioner submits that though the petitioner was earlier granted the benefits of 1st ACP scheme with effect from 01.09.2000 itself, but the same was amended vide office order dated 08.01.2019, erroneously and contrary to the well settled principle of law to the effect that non-passing of the departmental accounts examination cannot be an impediment for grant of the benefits of ACP/MACP scheme, as has been held by a judgment rendered by the learned Division Bench of this Court in the case of **State of Bihar & Ors. vs. Anjani Kumar**, reported in **2013 (2) PLJR 643**, which has also been upheld by the Hon'ble Apex Court, by an order dated 10.03.2014, passed in SLP (C) No.19182 of 2013. It is further stated that this aspect of the matter has also been conclusively decided by the Hon'ble Apex Court in the case of **Amresh Kumar Singh & Ors. vs. The State of Bihar & Ors.**, reported in **2023(2) PLJR (SC) 423**. It is the further claim of the petitioner that the petitioner is entitled to the



benefits of 1st ACP with effect from 01.09.2000 and 2nd ACP with effect from 01.09.2009 and 3rd ACP/MACP with effect from 01.09.2018.

3. *Per contra*, the learned counsel for the respondent-State submits that in case the learned Division Bench of this Court and the Hon'ble Apex Court have held that non-passing of the departmental accounts examination cannot be an impediment for grant of the benefits of ACP/MACP scheme to the incumbents, the matter be remanded back to the authorities for fresh consideration.

4. Having regard to the facts and circumstances of the case and considering the law laid down by the Hon'ble Apex Court and the learned Division Bench of this Court, as aforesaid, I deem it fit and proper to quash the orders dated 08.01.2019 and 17.09.2019, passed by the Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna and remand the matter back to him to reconsider the case of the petitioner in light of the judgement rendered by



the Hon’ble Apex Court in the case of **Amresh Kumar Singh** (supra) as also in light of the judgement rendered by the learned Division Bench of this Court in the case of **Anjani Kumar** (supra) and pass a reasoned and a speaking order with regard to the entitlement of the petitioner to grant of the benefits of the ACP/MACP scheme from the due date, without being impeded by the fact that the petitioner had not passed the departmental accounts examination in time, within a period of four weeks of receipt/production of a copy of this order.

5. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.01.2024
Transmission Date	NA

